

*B**Original*

IN THE UNITED STATES DISTRICT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT	
NORTHERN DISTRICT OF TEXAS	
FILED	
SEP 17 2009	
COURT	CLERK, U.S. DISTRICT COURT
By _____	Deputy

UNITED STATES OF AMERICA)
)
V.) NO. 3:09-CR-084 B-1
)
JACK HAMMOND CLAY)

REPLY TO RESPONSE TO MOTION TO DISMISS

Comes now Defendant Jack Hammond Clay, and for his Reply to Response to motion to dismiss states:

The government declares that the information is sufficient because it alleges that every element of the crime has been alleged. In fact the government has alleged that the receipt of certain amounts of money triggered the requirement to file a return.

No statute commanding the filing of a return upon the receipt of such amounts of income is alleged. In many other cases the government has alleged that much larger amounts were enshrined in statute, triggering the requirement to file a return.

The government is relying upon multiple, incompatible legal theories with respect to the alleged statutory requirement to file a tax return. It is not within the realm of possibilities that all these theories are correct. Some must be false.

In a separate motion for bill of particulars, Defendant cited *Bryan v. United States*, 524 U.S. 184, 194, 118 S.Ct. 1939 (1998), where the Court said:

... In certain cases involving willful violations of the tax laws, we have concluded that the jury must find that **the defendant was aware of the specific provision of the tax**

code that he was charged with violating. See, e.g., *Cheek v. United States*, 498 U.S. 192, 201 (1991). ...
(Emphasis added)

As a separate matter, this Court should direct the government to supply the particulars requested by separate pleading, and require that the information state specifically the provision of law, of which undersigned was allegedly aware, that required the filing of a return based upon the receipt of the amounts listed in the information for each respective year.

Unless the government is able to disclose a law which triggers a filing requirement based upon receipt of the amounts listed in the information, the information should be dismissed.

WHEREFORE, Defendant respectfully requests that this Court dismiss the information; and grant such other and further relief as may be appropriate whether or not specifically prayed.

RESPECTFULLY SUBMITTED this Sept 17, 2009.

By: Jack Hammond Clay
Jack Hammond Clay
c/o 1400 South Nursery Road
Irving, Texas [75060]

CERTIFICATE OF SERVICE

I, Jack Hammond Clay, by my signature above certify that I have contemporaneously with this filing caused the Plaintiff to be served with a copy of this pleading by email and by CM/ECF to:

Amy J. Mitchell
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